

Notice of Allowability

Application No.

09/848,462

Applicant(s)

MONDET, JEAN

Examiner

Marina Lamm

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephone interview and amendment to the claims.
2. ☒ The allowed claim(s) is/are 1-6, 8-13, 15, 16 and 18-65.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Sadoff on 6/24/04.

The application has been amended as follows:

Please cancel Claim 17.

Please amend Claims 8 and 18 as follows.

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8. (Currently Amended) Cosmetic composition comprising, in a cosmetically acceptable medium comprising a fatty phase, at least one linear or cyclic polyorganosiloxane, which comprises at least two organosiloxy units and at least two side groups or end groups which are each capable of forming at least one hydrogen bond with one or more partner groups, the said organosiloxy units being represented by the following formula:



in which:

R represents a linear, branched or cyclic alkyl group, an aryl group, a polyether group or a fluoro group,

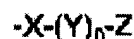
R' represents a group capable of forming at least one hydrogen bond,

a is 1, 2 or 3, and

b is 0 or 1, with the proviso that a+b is equal to 2 or 3,

the said group R' being selected from the group consisting of:

- (a) a group derived from an unprotected or a partially protected amino acid, and
- (b) a carboxylic acid, an amine or a phenol group of formula:



in which:

X represents a linear, branched or cyclic alkylene or alkenylene spacer chain, optionally comprising one or more hetero atoms in the chain,

Y represents a monocyclic or polycyclic divalent unsaturated hydrocarbon-based group, said polycyclic group optionally comprising up to 4 fused rings,

n represents an integer ranging from 1 to 4, and Z represents a -COOH or -OH group or a primary, secondary or tertiary amine group.

18. (Currently Amended) Cosmetic composition according to ~~Claim 17~~ Claim 8, wherein the fatty phase comprises fatty substances that are liquid at room temperature and/or fatty substances that are solid at room temperature.

Please add new Claims 38-65 as follows:

38. (new) Cosmetic composition comprising, in a cosmetically acceptable medium, at least one linear or cyclic polyorganosiloxane, which comprises at least two organosiloxy units and at least two side groups or end groups which are each capable of forming at least one hydrogen bond with one or more partner groups, the said organosiloxy units being represented by the following formula:



in which:

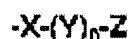
R represents a linear, branched or cyclic alkyl group, an aryl group, a polyether group or a fluoro group,

R' represents a group capable of forming at least one hydrogen bond,

a is 1, 2 or 3, and

b is 0 or 1, with the proviso that a+b is equal to 2 or 3,

the said group R' is a carboxylic acid, an amine or a phenol group of formula:



In which:

X represents a linear, branched or cyclic alkylene or alkenylene spacer chain, optionally comprising one or more hetero atoms in the chain,

Y represents a monocyclic or polycyclic divalent unsaturated hydrocarbon-based group, said polycyclic group optionally comprising up to 4 fused rings,

n represents an integer ranging from 1 to 4, and Z represents a -COOH or -OH group or a primary, secondary or tertiary amine group,

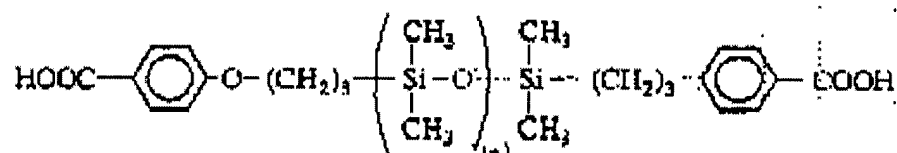
39. (new) Cosmetic composition according to Claim 38, wherein the polyorganosiloxane comprises from 2 to 50,000 organosiloxy units.

40. (new) Cosmetic composition according to Claim 38, wherein the side groups or end groups of the polyorganosiloxane are each capable of forming at least two hydrogen bonds with one or more partner groups.

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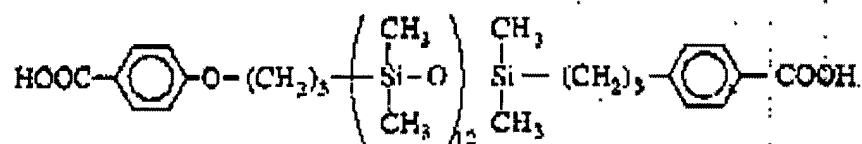
41. (new) Cosmetic composition according to Claim 38, wherein Y represents a 6-membered aromatic nucleus and Z represents a -COOH group.

42. (new) Cosmetic composition according to Claim 41, wherein the polyorganosiloxane corresponds to the following formula:



with t ranging from 1 to 1200.

43. (new) Cosmetic composition according to Claim 42, wherein the polyorganosiloxane corresponds to the following formula:



44. (new) Cosmetic composition according to Claim 38, wherein the amount of the polyorganosiloxane is between 0.5% and 50% by weight relative to the total weight of the cosmetic composition.

45. (new) Cosmetic composition according to Claim 14, wherein the amount of the polyorganosiloxane is between 1% and 30% by weight relative to the total weight of the cosmetic composition.

46. (new) Cosmetic composition according to Claim 38, wherein the cosmetically acceptable medium comprises a fatty phase, optionally organic solvents and optionally water.

47. (new) Cosmetic composition according to Claim 46, wherein the fatty phase comprises fatty substances that are liquid at room temperature and/or fatty substances that are solid at room temperature.

48. (new) Cosmetic composition according to Claim 47, wherein the fatty substances that are liquid at room temperature comprise at least one of a silicone oil and a hydrocarbon-based oil.

49. (new) Cosmetic composition according to Claim 48, comprising at least one silicone oil.

50. (new) Cosmetic composition according to Claim 49, wherein the silicone oil is selected from the group consisting of polydimethylsiloxanes (PDMSes), which are optionally phenylated; polymethylphenylsiloxanes, which are substituted with aliphatic

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and/or aromatic groups, or optionally fluorinated; polysiloxanes modified with fatty acids, fatty alcohols or polyoxyalkylenes; fluorosilicones and perfluorosilicone oils.

51. (new) Cosmetic composition according to Claim 48, wherein the hydrocarbon-based oil is selected from the group consisting of liquid paraffin, liquid petroleum jelly, mink oil, turtle oil, soybean oil, perhydrosqualene, sweet almond oil, beauty-leaf oil, palm oil, grape pip oil, sesame oil, corn oil, parleam oil, arara oil, rapeseed oil, sunflower oil, cottonseed oil, apricot oil, castor oil, avocado oil, jojoba oil, olive oil, cereal germ oil; an ester of linoleic acid, an ester of oleic acid, an ester of lauric acid, an ester of stearic acid a fatty ester, and a higher fatty alcohols containing at least 12 carbon atoms.

52. (new) Cosmetic composition according to Claim 47, wherein the fatty substances that are solid at room temperature comprise waxes, gums and/or pasty fatty substances.

53. (new) Cosmetic composition according to Claim 52, wherein the waxes are selected from the group consisting of waxes of animal origin, plant waxes, mineral waxes, synthetic waxes, waxes obtained by Fischer-Tropsch synthesis, silicone waxes and hydrogenated oils that are solid at 25°C.

54. (new) Cosmetic composition according to Claim 52, wherein the gums are selected from the group consisting of high molecular weight polydimethylsiloxanes.

55. (new) Cosmetic composition according to Claim 52, wherein the pasty fatty substances are selected from the group consisting of hydrocarbon-based compounds and polydimethylsiloxanes.

56. (new) Cosmetic composition according to Claim 38, further comprising at least one additive selected from the group consisting of a filler, a pigment, a colorant, a surfactant, a sunscreen, an antioxidant, a fragrance and a preserving agent.

57. (new) Cosmetic composition according to Claim 38, wherein said composition is anhydrous.

58. (new) Cosmetic composition according to Claim 38, wherein said composition is in the form of a stick, a tube, a soft paste, with a dynamic viscosity at 25°C of about from 1 to 40 Pa.s, a dish, an oily gel or an oily liquid.

59. (new) A method of making up and/or caring for the skin, comprising applying a composition of claim 38 to said skin.

60. (new) Cosmetic composition according to Claim 38, in the form of a lipstick, a mascara, an eyeliner, a foundation, a powder, a blusher, an eyeshadow or a body make-up.

61. (new) Cosmetic composition according to Claim 38, in the form of a moisturizing product, a deodorant or an antiperspirant.

62. (new) A cosmetic composition according to Claim 39, wherein the polyorganosiloxane contains from 2 to 30,000 organosiloxy units.

63. (new) A cosmetic composition of claim 50, wherein the silicone oil is selected from the group consisting of a phenyltrimethicone, a phenyltrimethylsiloxy-diphenylsiloxane, a diphenylmethyldimethyltrisiloxane, a diphenyldimethicone, and a phenyldimethicone.

64. (new) A cosmetic composition according to Claim 51, wherein said oil is selected from the group consisting of isopropyl myristate, isopropyl palmitate, butyl stearate, hexyl laurate, diisopropyl adipate, isononyl isononanoate, 2-ethylhexyl palmitate, 2-hexyldecyl laurate, 2-octyldecyl palmitate, 2-octyldodecyl myristate or lactate, bis(2-ethylhexyl) succinate, diisostearyl malate, glyceryl trisostearate, diglyceryl trisostearate, stearyl alcohol, oleyl alcohol, linoleyl alcohol, linolehyl alcohol, isostearyl alcohol and octyldodecanol.

65. (new) A method of Claim 59, wherein said skin is selected from the group consisting of eyelids, lips and nails.

Allowable Subject Matter

2. Claims 1-6, 8-13, 15, 16 and 18-65 are allowed.

3. The following is an examiner's statement of reasons for allowance: Claims 1-6 are allowable over the cited prior art because the prior art does not teach, disclose nor make obvious the claimed method of gelling a cosmetic composition comprising adding to a cosmetic compositions a polyorganosiloxane of the given formula, as a gelling agent. The closest available prior art (FR 2,708,272) teaches the polyorganosiloxanes of the instant claims (specifically wherein R' is a group derived from an unprotected or partially protected amino acid), which are used as adhesives, but fails to teach the claimed method of gelling a cosmetic composition. Further, Claims 8-13, 15, 16 and 18-37 are allowable over the cited prior art because the prior art does not teach, disclose nor make obvious the claimed composition comprising a fatty phase and a polyorganosiloxane of the given formula. The closest available prior art (FR 2,708,272) teaches the polyorganosiloxanes of the instant claims in water or organic solvents (e.g. acetone), but fails to teach the claimed combination of the siloxane and fatty phase. Furthermore, Claims 38-65 are allowable over the cited prior art because the prior art does not teach, disclose nor make obvious the claimed composition comprising a cosmetically acceptable vehicle and a polyorganosiloxane of the given formula, wherein R' is a carboxylic acid, an amine or a phenol of the given formula. The closest available prior art (FR 2,708,272) teaches the polyorganosiloxanes wherein R' is a group derived

from an unprotected or partially protected amino acid. Therefore, the instant invention is patentably distinct from the cited prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (571) 272-0618. The examiner can normally be reached on Mon-Fri from 11am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached at (571) 272-0602.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


6/24/04


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